

**ORDINANCE NO. XXX- (2018)
TC-1-18**

**AN ORDINANCE TO AMEND MULTIPLE SECTIONS OF THE PART 10 RALEIGH
UNIFIED DEVELOPMENT ORDINANCE TO CORRECT TYPOGRAPHICAL
ERRORS, FORMATTING ISSUES AND CLARIFICATIONS TO REGULATIONS**

WHEREAS, the Unified Development Ordinance is a regulatory document and in order to properly regulate development, the document should be clear and understandable;

WHEREAS, errors and inconsistencies in the document can undermine the consistency and application of the regulations;

WHEREAS, after application of certain standards, staff has identified areas of need to improve and correct the errors; and

WHEREAS, staff has identified a need to enhance or clarify certain processes contained within the document;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
RALEIGH THAT:**

Section 1. Section 1.1.12.G. of the Part 10 Raleigh Unified Development Ordinance, Stormwater Manual, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

G. ~~Stormwater Manual~~ City of Raleigh Stormwater Management Design Manual;

Section 2. Section 1.5.3.B.1 of the Part 10 Raleigh Unified Development Ordinance, Coverage, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Outdoor amenity areas are intended to provide usable on-site open space in both residential and non-residential developments for the healthy enjoyment of occupants, invitees and guests of ~~the~~ the development.

Section 3. Section 1.5.4.D.2, of the Part 10 Raleigh Unified Development Ordinance, Mechanical Equipment and Utility Lines, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- a. Mechanical equipment associated with residential uses, such as HVAC units, permanently installed residential generators and security lighting, may extend into a required rear or side setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.

Section 4. Sec. 1.5.9.B.1 of the Part 10 Raleigh Unified Development Ordinance, Transparency, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. The minimum percentage of windows and doors that must cover a ground story façade is measured between 0 and 12 feet above average grade of building. ~~the adjacent sidewalk.~~ More than 50% of the ~~required~~ transparency must be located between 3 and 8 feet above average grade of ~~on~~ the building façade.

Section 5. Section 3.3.1. of the Part 10 Raleigh Unified Development Ordinance, Applicability, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- A. Each Mixed Use District must include one of the following height designations. The designation establishes the maximum height in stories and feet for each mixed use district. For example, CX-7 has a maximum height limit of 7 stories or ~~and~~ 90 feet.

Section 6. Section 4.5.3.C of the Part 10 Raleigh Unified Development Ordinance, Manufactured Home Space Standards, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

Manufactured Home

Each manufactured home shall comply with the following setbacks.

- a. Primary street and side street setback: 20 feet minimum.
- b. Interior side setback: 5 feet minimum.
- c. Rear setback: ~~20~~ 10 feet minimum.
- d. Building to building separation may be no less than 20 feet.

Section 7. Section 5.2.2.D of the Part 10 Raleigh Unified Development Ordinance, Setbacks, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Separation and Protective Yards
 - a. The setbacks of the underlying zoning district shall apply with the exception that any portion of a lot that is two acres and larger abutting a Metro-Park boundary requires a 32-foot wide primary tree conservation area along the entire length of the property boundary.
 - b. No tree or land disturbing activity, animal pen, structure, septic system, stormwater facility or vehicular surface area may be located within 32 feet of a Metro-Park boundary.

2. Natural Resource Buffer Yards

All parcels two acres and larger with ~~All~~ watercourses that both drain into a Metro-Park and have concentrated flow from a drainage area of at least 5 acres must establish a primary tree conservation in accordance with *Sec. 9.2.3*.

Section 8. Section 5.3.1.G.1 of the Part 10 Raleigh Unified Development Ordinance, Special Highway Overlay Districts (-SHOD-), is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Where the protective yard basal area is less than ~~50~~30 for each 50 linear feet, existing vegetation that meets or exceeds the quantity, spacing and height standards may be used to satisfy the protective yard requirements. Where the protective yard basal area is ~~50~~30 or more for each 50 linear feet, such areas shall be primary tree conservation areas and must meet the requirements of *Article 9.1. Tree Conservation*.

Section 9. Section 6.1.4. of the Part 10 Raleigh Unified Development Ordinance, Allowed Principal Use Table, is hereby amended by insertion of the following underlined language:

Under the “Light Industrial” category, add a new nested use titled “Brewery, winery, distillery” and list the use as “L” in the DX zoning district, and “P” in the IX and IH zoning districts.

Section 10. Section 6.4.7.C of the Part 10 Raleigh Unified Development Ordinance, Remote Parking Facility, is hereby amended by insertion of the following underlined language:

C. Remote Parking Facility

1. Defined

A facility that provides parking as a principal use that is used to meet the off-site parking provisions of *Sec. 7.1.2.C* for a permitted principal use ~~within the same the zoning district~~.

2. Use Standards

- a. The remote parking lot must be located within the specified distance of the principal use served as set forth in *Sec. 7.1.5.B*.
- b. The remote parking lot must be located completely within ~~the same contiguous~~ a zoning district that permits the use that the parking is serving ~~as the principal use served~~.
- c. A Type A1 or A2 transitional protective yard (see *Sec. 7.2.4.A*.) must be established along any side of the property abutting a residential use.
- d. In an R-1, R-2, R-4, R-6, R-10 or R-X district, a fee may not be charged.

Section 11. Section 6.6.1.B of the Part 10 Raleigh Unified Development Ordinance, Community Gardens, is hereby amended by insertion of the following underlined language:

~~Raising of animals is not permitted in a Residential District,~~ Raising of animals in conjunction with a community garden is permitted as described below. ~~In all other permitted districts, the raising of animals is subject to the following conditions:~~

- i. The community garden must be in active use for the growing and harvesting of crops.
- ii. Hoofed animals are prohibited.
- iii. Chickens are permitted at rate of 1 chicken per 1,000 square feet of lot area not to exceed 10 chickens on any single lot. No roosters are allowed.
- iv. A maximum of 2 bee hives are permitted.

Section 12. Section 6.7.3.G.7. of the Part 10 Raleigh Unified Development Ordinance, Recreational Use Related to a Residential Development, is hereby amended by insertion of the following underlined language:

7. Parking for the recreational uses shall be provided in accordance with Sec. 7.1.2.C Parking Requirements by Use. However, the number of required parking spaces may be reduced by the ratio of the total parking required for the residential uses that are located within 400 feet of the recreation use to the total required parking for all residential uses in the development.

Section 13. Section 6.8.2.D.1. of the Part 10 Raleigh Unified Development Ordinance, Produce Stand, is hereby amended by deletion of the following strikethrough language:

1. Defined
A produce stand permits the itinerant sale of agricultural produce and home-made food goods ~~on a property~~ without a permanent structure or improvements.

Section 14. Section 7.1.2.A.2 of the Part 10 Raleigh Unified Development Ordinance, Required Parking, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. When a lot is used for a combination of uses, the parking requirements are the sum of the requirements for each use and no parking space for one use can be included in the calculation of parking requirements for any other use, except as allowed as in Sec. ~~7.1.5.B~~ 7.1.5.A.

Section 15. Section 7.1.3 of the Part 10 Raleigh Unified Development Ordinance, Parking Requirements by Use, In the “Outdoor Recreation” category, “Short -Term Bicycle Parking” is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- ~~1 space per 5,000 SF of site area,~~ minimum 4.

Section 16. Section 7.2.5.D of the Part 10 Raleigh Unified Development Ordinance, Signs Allowed By District, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Exemptions

Free-standing or roof-mounted sustainable energy systems and equipment associated with a single-unit living, two-unit living or townhouse building type used for multi-unit living are exempt from these screening requirements.

Section 17. Section 7.3.2 of the Part 10 Raleigh Unified Development Ordinance, Signs Allowed By District, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

In the “Special” column, add a new zoning district titled “MH”. Within this column, add a “P” in the row titled “Tract Identification Sign.”

Section 18. Section 7.3.12.C.3 of the Part 10 Raleigh Unified Development Ordinance, Location, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

C3	ROW Encroachment	Allowed with <u>minor encroachment</u> Council approval
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Section 19. Section 8.1.1.D. of the Part 10 Raleigh Unified Development Ordinance, Lot Frontage, is hereby amended by insertion of the following underlined language:

- D. Waivers to this Chapter are approved by the ~~City Council~~ Board of Adjustment pursuant to Sec. 10.2.5.E.2. The ~~Public Works~~ Development Services Director where specifically authorized may approve administrative design adjustments. Any adjustment not approved by the ~~Public Works~~ Development Services Director may in the sole discretion of the developer be brought to the City Council as a waiver request.

Section 20. Section 8.3.3.A. of the Part 10 Raleigh Unified Development Ordinance, Lot Frontage, is hereby amended by insertion of the following underlined language:

A. Lot Frontage

Every lot shall have frontage on a public street, except interior lots within a Cottage Court that meet the requirements of Sec. 2.6.1. and except those developments which were approved for private streets prior to the effective date of this UDO. Except as otherwise stated in this UDO, all lots must front on a street that has a pavement width of at least 20 feet.

Section 21. Section 8.3.5.A. of the Part 10 Raleigh Unified Development Ordinance, General Access Requirements, is hereby amended by insertion of the following underlined language:

A. General Access Requirements

1. All existing and proposed development must provide a satisfactory means of vehicular, pedestrian and bicycle ingress and egress to and from a street or an abutting site. For the purpose of this section, “satisfactory” shall be based upon the nature and quality of the access, the amount of trips generated by the use, the scale and type of the development, and need for emergency access.

Section 22. Section 8.4.4.D of the Part 10 Raleigh Unified Development Ordinance, Multifamily Streets, is hereby amended by insertion of the following underlined language:

Building setbacks are measured from the back edge of Area “E”, sidewalk easement. This street can only be used in conjunction with townhouse and apartment building types.

Section 23. Section 8.5.1.C of the Part 10 Raleigh Unified Development Ordinance, Tree Planting, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

C. Letter of Acceptance

1. Sidewalks, streets and street trees must be installed prior to the issuance of a letter of final acceptance.
2. A conditional letter of acceptance may be issued in accordance with *Sec. 8.1.3.* where the ~~Public Works~~ City Director determines that landscaping in the public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with *Sec. 8.5.1.B.* The landscaping improvements shall be installed within 12 months of issuance of the conditional letter of acceptance.
3. Where determined appropriate by the ~~City~~Public Works Director, the sidewalk and street tree planting area may occur on private property ~~subject to an easement for public access.~~

Section 24. Section 8.5.1.D of the Part 10 Raleigh Unified Development Ordinance, Tree Planting, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Unless otherwise noted below, all trees planted in accordance with this Article must be shade trees.
2. Where overhead utilities exist, ~~4~~ one understory tree shall be planted every 20 feet on center, on average. Required understory trees may be installed within GSI practices. Up to 20% of required understory trees may be offset by installing vegetated GSI practices,

such as stormwater planter boxes. A maintenance plan must be approved for the GSI practice according to *Sec. 9.2.2.D*.

3. All a required street trees must meet the design and installation requirements of *Sec. 7.2.7*. If a GSI practice is part of an approved stormwater management plan for the site, required street trees may be installed within the GSI practice. A maintenance plan must be approved for the GSI practice according to *Sec. 9.2.2.D*.
4. Where development abuts a street controlled by the North Carolina Department of Transportation, street trees may not be required in the right-of-way, at the discretion of the North Carolina Department of Transportation. In this instance, a Type C2 street protective yard is required in accordance with *Sec. 7.2.4*. When this required C2 street protective yard would be required in a location where established tree conversation area is present, the C2 yard is not required.

Section 25. Section 9.1.4.A.8 of the Part 10 Raleigh Unified Development Ordinance, Primary Tree Conservation Areas, is hereby amended by the insertion of the following underlined provisions:

8. An undisturbed area adjoining a Thoroughfare varying in width between 0 and 100 feet; provided that the total undisturbed area is equal to an area measured 50 feet perpendicular to the Thoroughfare. If any easements are present in this area, the tree conservation area is required to be located behind the easement.

Section 26. Section 9.1.4.B.2 of the Part 10 Raleigh Unified Development Ordinance, Tree Conservation Area Allocation, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Secondary tree conservation areas described in ~~h. through~~ Sec. 9.1.4.B.1.a and Sec. 9.1.4.B.1.b. and their alternates above must be at least 32 feet in all directions and be a minimum of 4,000 square feet in area, excluding external boundaries.

Section 27. Section 9.1.4.B.4 of the Part 10 Raleigh Unified Development Ordinance, Secondary Tree Conservation Areas, is hereby amended by the insertion of the following underlined provisions:

5. As an alternative to *Sec. 9.1.4.B.1.a. and Sec. 9.1.4.B.1.b.* above, secondary tree conservation areas of undisturbed areas allowed elsewhere on the site provided that they are a minimum of 32 feet in all directions and that the square footage of the substituted areas is at least 4,000 square feet. No portion of Zone 1 of Neuse River Riparian Buffers as established in Title 15A of the North Carolina Administrative Code, Sub article 2B Section .0233, shall be designated an alternate undisturbed area.

Section 28. Section 9.1.4.C.7 of the Part 10 Raleigh Unified Development Ordinance, Tree Cover Report, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

C. Excluded Areas

Tree Conservation Areas must exclude the following

Any area as required by the City devoted or to be devoted to streets, future right-of-way reservation, sidewalks, driveways, walkways, existing storm drainage facilities, including without limitation, pipes , energy dissipaters and storm water control measures that require the removal of vegetation.

Section 29. Section 9.1.4.E.1. of the Part 10A Raleigh Unified Development Ordinance, Tree Cover Required, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

1. Tree conservation areas proposed for -SHOD-1, -SHOD-2, Parkway Frontage, and undisturbed areas adjoining a ~~Major or Minor~~ Thoroughfare protective yard (*Sec. 9.1.4.A.1, Sec. 9.1.4.A.2. and Sec. 9.1.4.A.8.*) and their secondary priority areas (*Sec. 9.1.4.B.1.a. and Sec. 9.1.4.B.1.b.*) and their alternates, which consist of groups of trees and their critical root zones, must contain a basal area of at least 30 square feet per acre as measured in increments of 50 lineal feet.

Section 30. Section 9.1.4.E.3. of the Part 10 Raleigh Unified Development Ordinance, Tree Conservation Area Allocation, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

3. For those developments that fulfill any of their tree conservation area requirement using a -SHOD-1, -SHOD-2, Parkway Frontage or undisturbed areas adjoining a ~~Major or Minor~~ Thoroughfare protective yard or with secondary tree conservation areas from Sec. 9.1.4.B.1.a. or Sec. 9.1.4. B.1.b. and their alternates, the following must be submitted:

a. Photo panoramic panels of the intended area to be conserved. The photo panel shall equal 50 feet of the length of the tree conservation area to be saved;

b. A tree cover report prepared by a North Carolina registered forester or North Carolina licensed landscape architect or ~~Certified Arborist~~ that, inventories each 50-foot length of proposed tree conservation area as shown in the photo panels, to identify all eligible trees 3 inches DBH and larger, by species, DBH, ~~with~~ basal area calculations and a determination of the general health of the tree stand; and

c. The most recent aerial photograph of the subject tract.

Section 31. Section 9.1.7.A of the Part 10 Raleigh Unified Development Ordinance, Penalties, is hereby amended by insertion of the following underlined language:

1. A violation of this Article, where unlawful tree disturbing activity has occurred and trees and stumps are absent, shall subject the violator to a civil penalty of a minimum of \$1,000 for the first tree plus 35 cents of every square foot of unlawful tree disturbing activity.

Section 32. Section 9.1.8 of the Part 10A Raleigh Unified Development Ordinance, Restoration, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

A. In addition to the civil penalty of Sec. 9.1.7., the owner of real property, where a violation has occurred, shall remove each unlawfully disturbed tree and replace with a tree or trees of equal caliper.

B. Prior to any replanting, the ~~Planning and Development Officer~~ City Urban Forester shall first approve a replacement planting and maintenance plan. Replacement trees shall be 2 inches in caliper and no replacement tree shall be located in those portions of a tree conservation area with a basal area of over 80 square feet per acre.

C. All replacement trees shall be planted in a planting area of at least 200 square feet in area with minimum dimensions of 8 feet. ~~D. If the tree conservation area where the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees cannot be planted on other portions of the property, then in lieu of such replacement trees, a replacement fee equal to \$100 per caliper inch of replacement trees shall be paid to the City.~~

D. Where an unlawful tree disturbing activity violation has occurred, the City Urban Forester may require active tree preservation measures instead of tree removal and replacement and the owner shall carry out the active tree preservation measures required.

Section 33. Section 9.1.9. of the Part 10A Raleigh Unified Development Ordinance, Watershed Protection Overlay Districts, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through :

A. Applicability

~~Except as otherwise provided below, Prior to approval of any subdivision, site plan, or establishment of a new use, every lot site located within a -UWPOD, -FWPOD or -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the net lot site area, except as otherwise provided below. A plot plan or tree disturbing activity cannot reduce the wooded area on the site to less than the lawful limit. No tree disturbing activity shall occur without a permit and an approved plan. Within this area, trees must be either preserved or planted in accordance with the following:~~

1. Tree areas may be 1 contiguous area or scattered areas throughout the lot, but no required tree area may be less than 1/5 of the total gross land area or 10ft in width required to be set aside for trees;
2. All areas required to be set aside for trees shall be maintained as wooded areas;

3. Wooded areas may consist of either areas where active tree preservation is observed or tree planting areas;

4. Each active tree preservation area must contain a minimum of 2 inches of tree caliper per every 100 square feet and within such areas, active tree preservation shall be followed;

a. Areas that are set aside for trees that do not meet the standards for active tree protection areas must be planted with shade trees; and

b. The minimum size and planting rate of new tree plantings used to fulfill this requirement shall be either 1 bare-root seedling at least 14 inches tall planted per 100 square feet (10 feet by 10 feet centers) or one 2-inch caliper tree planted per 200 square feet.

Section 34. Section 9.1.10.E. of the Part 10 Raleigh Unified Development Ordinance, Violations, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. A violation of this ~~section-article~~, where unlawful tree disturbing activity has occurred and trees and stumps are absent, shall subject the violator to a civil penalty equal to \$1,000 for the first tree plus 35 cents of every square foot of unlawfully disturbed perimeter buffer.
2. Where trees or stumps are present after unlawful tree disturbing activity has occurred, the civil penalty shall instead be calculated as \$1,000 for the first tree plus \$100 per diameter inch for any other tree or stump 3 inches diameter and larger.
3. No civil penalty shall exceed 1/3 of the current land tax value of the entire site.
4. The penalty shall be processed as set forth in Sec. 10.4.2. In addition to this civil penalty, within the unlawfully disturbed perimeter buffer, the land owner shall install one 2-inch caliper tree for each 200 square feet of all of the unlawfully disturbed perimeter buffer; provided that, in R-1 and R-2 no more than 15% of the acreage of the entire tract and no more 10% of the acreage of the entire tract of all other districts shall be planted.
5. Prior to any replanting, the ~~Planning and Development Officer~~ City Urban Forester shall first approve a replacement planting and maintenance plan.
6. The replanting areas shall be designated as tree conservation areas on plats with delineated metes and bounds descriptions recorded with the local County Register of Deeds, however, the replacement planting areas shall not count toward the tree conservation percentage requirements of Sec. 9.1.3. Following the recording of this plat, no tree disturbing activity shall take place within the designated tree conservation areas.

7. Where an unlawful tree disturbing activity violation has occurred, the City Urban Forester may require active tree preservation measures instead of tree removal and replacement and the owner shall carry out the active tree preservation measures required.

Section 35. Section 9.2.1.B of the Part 10 Raleigh Unified Development Ordinance, Manual and Guidelines Incorporated, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

B. The ~~Raleigh Stormwater Control and Watercourse Buffer Manual~~ City of Raleigh Stormwater Management Design Manual, along with the Guidelines for Land Disturbing Activities and amendments, on file in the City Clerk's Office, is adopted by reference as part of this UDO.

Section 36. Section 10.1.8 of the Part 10 Raleigh Unified Development Ordinance, Summary of Review Authority, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. In the "Vested Rights" row, the "Y" should be centered.
2. In the "Site Plan Review" row, add a "Y" to the Mailed Notice column, with a footnote that refers to section 10.2.8.C.1.d
3. In the "Non-Subdivision Final Plat and Recorded Instruments" row, add a "R⁽¹⁾" in the "Historic Development Commission" column.

Section 37. Section 10.2.1.C.1 of the Part 10 Raleigh Unified Development Ordinance, Mailed Notice, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

g. Except for a City-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the City Council that the owner of the parcel of land, as shown on the county tax listing, has received actual notice of the proposed amendment and a copy of the notice of public hearing. The applicant shall certify to the City Council that proper notice has been provided in fact and such certification shall be deemed conclusive in the absence of fraud. Actual notice shall be achieved as follows:

~~h~~i. Actual notice of the proposed amendment and a copy of the notice of public hearing shall be by any manner permitted under N.C. Gen. Stat. §1A-1, Rule 4(j).

~~h~~ii. If notice with due diligence cannot be achieved by personal delivery, registered or certified mail or by a designated delivery service, notice may be given by publication consistent with N.C. Gen. Stat. §1A-1, Rule 4(j1). (See N.C. Gen. Stat. §160A-384).

~~h~~h. For quasi-judicial hearings, mailed notice shall be provided to all other persons with an ownership interest in the subject property as set forth in all applicable State and local laws.

Section 38. Section 10.2.2.D of the Part 10 Raleigh Unified Development Ordinance, Approval Process, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. Planning and Development Officer Action

- a. The Planning and Development Officer shall review the application for a Comprehensive Plan amendment in accordance with Planning and Development Officer Review in Sec. 10.2.2.E. and provide a report and recommendation to the Planning Commission within 45 days of submittal of a completed application. ~~no later than Planning Commission's next public meeting.~~

Section 39. Section 10.2.2.D.2 of the Part 10 Raleigh Unified Development Ordinance, Planning Commission Action, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- b) The Planning Commission may refer the proposed amendment to a work session of the Planning Commission or one of its committees for additional consideration or the Planning Commission may act upon the application

Section 40. Section 10.2.5.E.3.a of the Part 10 Raleigh Unified Development Ordinance, Planning Commission Action, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

3. Development Services Department Action

- a. Development Services has the authority to approve preliminary subdivision plans without review by either the City Council or the Board of Adjustment except in the following situations:
 - i. The preliminary subdivision plan is within a Historic Overlay District or of a designated Historic Landmark;
 - ii. The preliminary subdivision plan is located in a -MPOD, other than single-unit living lots; or
 - iii. A Waiver Request is filed.

In these instances, staff shall review the applications and the City Council shall conduct a quasi-judicial public hearing. Public notice of these subdivision requests shall be provided in accordance with Sec. 10.1.8.

Section XX. Section 10.2.5.F of the Part 10 Raleigh Unified Development Ordinance, Final Subdivision Plat Approval Process, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- c. The subdivider shall present to the county register of deeds office where the property is located the appropriate number of signed mylar copies of the final plat, as specified on

~~the Recorded Map application and Recorded Map checklist. 3 signed copies of the final plat, 1 copy for the register of deeds, a copy for the subdivider and a copy for the City.~~

Section 41. Section 10.2.7.A of the Part 10 Raleigh Unified Development Ordinance, Applicability, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

1. No plot plan is required for ordinary maintenance or for any accessory building having an area less than 144 ~~150~~ square feet and a roof span no greater than 12 feet.

Section 42. Section 10.2.7.A.2 of the Part 10 Raleigh Unified Development Ordinance, Applicability, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- g. Demolition and replacement of a building, other than a detached house used for single-unit living or an attached house used for two-unit living when all of the following are met:
 - i. The amount of required parking as determined in *Article 7.1. Parking*, notwithstanding any variance, credit, nonconformity, exception, special vehicle parking provision, vehicular parking reduction or the existence of any surplus parking, does not increase by 10 spaces or 10%, whichever is less;
 - ii. The replacement building conforms to all City Code requirements;
 - iii. Building permits are issued and foundations are installed for the replacement within 1-year of the demolition permit; and
 - iv. All site improvements not limited to required parking, tree protection, landscaping, internal pedestrian walkways, driveways and closings are made in accordance with this UDO.
- h. Construction of a detached house used for single unit living or construction of an attached house used for two-unit living located on any vacant lot that was lawfully established, including the lawful recombination of lots. Construction of a detached house on lots that were created in violation of this UDO or on recombined lots not approved by the City are not plot plans.

Section 43. Section 10.2.7.A.2 of the Part 10 Raleigh Unified Development Ordinance, Applicability, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

- a. Construction of a fence, wall, gazebo, carport, home swimming pool, deck, porch or patio, or installation of a generator.

Section 44. Section 10.2.8.C.3 of the Part 10 Raleigh Unified Development Ordinance, Waivers, is hereby repealed and replaced with the following language:

4. Variances

In order to waive or modify a standard of this UDO identified during Site Plan review, a variance must be granted by the Board of Adjustment, consistent with the standards identified in Sec. 10.2.10.

Section 45. Section 10.2.11.E of the Part 10 Raleigh Unified Development Ordinance, Reviewing Body Action, is hereby amended deletion of the following strikethrough language:

1. Reviewing Body Action

Within 60 days after a completed application of an appeal of an administrative decision is filed, the reviewing body shall hold a quasi-judicial public hearing as set forth in *Sec. 10.2.1.D.1.* and provide notice as required in *Sec. 10.2.1.C.6.* ~~Appeals filed to the City Manager shall not be heard at a quasi-judicial public hearing.~~

Section 46. Section 10.2.11.F of the Part 10 Raleigh Unified Development Ordinance, Showings, is hereby amended by adding new numbered subsections, adding the language shown in underlined text and the deletion of the following strikethrough language:

F. Showings

1. The showings for the Board of Adjustment ~~reviewing body~~ shall be those required for the original decision. The Board of Adjustment may affirm or reverse the administrative decision based upon the applicable standards in this UDO.
2. The findings of fact for an appeal of a decision made by the Raleigh Historic Development Commission shall be based on the standards listed in Sec. 5.4.1.H. ~~The reviewing body may affirm or reverse the officer from whom the appeal is taken based on the applicable standards of this UDO.~~

Section 47. Section 10.2.15 of the Part 10 Raleigh Unified Development Ordinance, Certificate of Appropriateness, is hereby amended by the modification of the process diagram as follows:

In the “Minor Works” section, the box labeled “Disapprove” should be labeled “Do Not Approve,” and a gray arrow should connect the “Do Not Approve” box with the left side of the “Historic Development Commission” box below.

Section 48. Section 10.2.18 of the Part 10 Raleigh Unified Development Ordinance, Public Works Director Action, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

2. The Public Works Director shall consider the applicable intent statements and design adjustment findings for the request and either approve, approve with conditions or deny the request within 60 days of the receipt of a completed application.

a. The reasons for such approval or disapproval shall be stated in writing. In accordance with Sec. 10.2.1.C.6., notice of the decision shall be provided to the applicant and the property owner (if the property owner is not the applicant) and to each person who has filed a written request for notice with the Public Works Director prior to their decision.

b. Within 30 days from the date the application was decided, an appeal of the Public Works Director's action may be made to the Board of Adjustment in accordance with Sec. 10.2.11

3. Additional review time may be necessary when the design adjustment involves review by another municipal or state entity or when detailed engineering studies are submitted to or required by the Public Works Director.

~~a. The reasons for such approval or disapproval shall be stated in writing. In accordance with Sec. 10.2.1.C.6., notice of the decision shall be provided to the applicant and the property owner (if the property owner is not the applicant) and to each person who has filed a written request for notice with the Public Works Director prior to their decision.~~

~~b. Within 30 days from the date the application was decided, an appeal of the Public Works Director's action may be made to the Board of Adjustment in accordance with Sec. 10.2.11~~

Section 49. Section 10.4.2.A of the Part 10 Raleigh Unified Development Ordinance, General, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

2. All violations shall be subject to a civil penalty in the amount of ~~one~~ \$100 unless a higher amount is otherwise specified in this UDO; continuous violations shall be subject to a civil penalty in the amount specified in subsection ~~eE~~, below

Section 50. Section 12.2 of the Part 10 Raleigh Unified Development Ordinance, Definitions, is hereby amended to include the following defined terms, listed in alphabetical order:

Excessively trimmed

The pruning, cutting, or otherwise damaging the natural form of a tree when it meets one or more of the following:

- (1) Removes more than 25% of the crown system of a tree within a continuous five-year period.

- (2) Removes, cuts or covers more than 25% of the root system of a tree within a continuous five-year period.
- (3) Fails to conform to the pruning cuts methods set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices" of the American National Standards Institute.
- (4) Is made for a purpose other than "hazard pruning," or "utility pruning," or "maintenance pruning," as set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices" of the American National Standards Institute.
- (5) Is crown reduction, heading, vista pruning, or pollarding as set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices" of the American National Standards Institute.

Forestry General Forest Management

A woodland area where all of the following occur:

1. The growing of trees;
2. The harvesting of timber, leaves or seeds;
3. The regeneration of trees by the replanting of trees at the rate of 1 inch caliper per every 100 square feet of tree disturbing activity area within 220 days of harvesting; and
4. The application of "best management practices," including the NC Department of Environment, Health and Natural Resources, "Forest Practice Guidelines Related to Water Quality" – Title 15A North Carolina Administrative Code, subchapter 11, Sections 1.101 - .0209 and all successor documents.
5. A forest management plan is prepared or approved either by a professional forester registered in the State of North Carolina or by the Division of North Carolina Forest Resources. Copies of the forest management plan shall be provided to the City upon request.

Caliper

The diameter of nursery-grown trees measured at a point on the tree six inches above soil line for trees up to 4 inches caliper, or measured at a point on the tree twelve inches above the soil line for trees greater than four inches caliper. Caliper is the measurement used to specify sizes of new or replacement trees planted to meet the landscaping requirements of this code.

Minor Tree Removal Activity

~~(8)-~~ 8. The tree to be removed is for a City of Raleigh project to install or maintain public infrastructure and is unrelated to any site plan, ~~subdivision~~ subdivision or building permit.

Section 51. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 52. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which

can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 53. This text change has been reviewed by the Raleigh City Planning Commission.

Section 54. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 55. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 56. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 57. This ordinance is effective 5 days after adoption.

ADOPTED:

EFFECTIVE:

DISTRIBUTION:

Prepared by the Department of City Planning